

1 Daniel J. Palay, SBN 159348
2 *djp@calemploymentcounsel.com*
3 Brian D. Hefelfinger, SBN 253054
4 *bdh@calemploymentcounsel.com*
5 PALAY HEFELINGER, APC
1746 S. Victoria Ave., Suite 230
Ventura, CA 93003
Telephone: (805) 628-8220
Facsimile: (805) 765-8600

6 Attorneys for Plaintiff CYNTHIA GILBERT
and the Putative Class
7

8 Chad D. Greeson, SBN 251928
9 *cgreson@littler.com*
10 Shirley Shu, SBN 231407
sshu@littler.com
11 Helen Braginsky, SBN 282359
hbraginsky@littler.com
12 LITTLER MENDELSON, P.C.
Treat Towers, Suite 600
1255 Treat Boulevard
Walnut Creek, CA 94597
13 Telephone: (925) 932-2468
Facsimile: (925) 940-9535
14

15 Attorneys for Defendant OPTION CARE
ENTERPRISES, INC.

16 **UNITED STATES DISTRICT COURT**

17 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

18 CYNTHIA GILBERT, an individual,
19 on behalf of herself and all others
similarly situated,

20 Plaintiff,

21 vs.

22 OPTION CARE ENTERPRISES, INC.,
23 a Delaware corporation; and DOES 1
through 20, inclusive,

25 Defendants.

Case No. 2:23-cv-09992-SK
Assigned to: *Hon. Steve Kim*
CLASS ACTION

**STIPULATED
PROTECTIVE ORDER**

26 _____ *Complaint Filed: 08/01/23*

1 **TO THE COURT AND TO ALL PARTIES AND THEIR ATTORNEYS OF
2 RECORD:**

3 In order to protect the confidentiality of confidential information obtained by the
4 parties in connection with the above-captioned litigation, Plaintiff CYNTHIA
5 GILBERT (“Plaintiff”) and Defendant OPTION CARE ENTERPRISES, INC.
6 (“Defendant”) (collectively, the “Parties”), by and through their respective counsel of
7 record, hereby stipulate and agree as follows:

8 **1. PURPOSES AND LIMITATIONS**

9 Discovery in this action is likely to involve production of confidential,
10 proprietary or private information for which special protection from public disclosure
11 and from use for any purpose other than pursuing this litigation may be warranted.
12 Accordingly, the parties hereby stipulate to and petition the Court to enter the following
13 Stipulated Protective Order. The parties acknowledge that this Order does not confer
14 blanket protections on all disclosures or responses to discovery and that the protection
15 it affords from public disclosure and use extends only to the limited information or items
16 that are entitled to confidential treatment under the applicable legal principles. The
17 parties further acknowledge, as set forth in §15.3, below, that this Stipulated Protective
18 Order does not entitle them to file confidential information under seal; Civil Local
19 Rule 79-5 sets forth the procedures that must be followed and the standards that will be
20 applied when a party seeks permission from the court to file material under seal.

21 **2. GOOD CAUSE STATEMENT**

22 This action is likely to involve proprietary and confidential information, trade
23 secrets, vendor, and other valuable research, development, commercial, financial,
24 technical and/or confidential information for which special protection from public
25 disclosure and from use for any purpose other than prosecution of this action is
26 warranted. Such confidential and proprietary materials and information consist of,
27 among other things, confidential business or financial information, information
28 regarding confidential business practices, or other confidential research, development,

4879-2862-5901.7 / 119101-1014

1 or commercial information and information otherwise generally unavailable to the
 2 public, or which may be privileged or otherwise protected from disclosure under state
 3 or federal statutes, court rules, case decisions, or common law. Accordingly, to expedite
 4 the flow of information, to facilitate the prompt resolution of disputes over
 5 confidentiality of discovery materials, to adequately protect information the parties are
 6 entitled to keep confidential, to ensure that the parties are permitted reasonable
 7 necessary uses of such material in preparation for and in the conduct of trial, to address
 8 their handling at the end of the litigation, and serve the ends of justice, a protective order
 9 for such information is justified in this matter. It is the intent of the parties that
 10 information will not be designated as confidential for tactical reasons and that nothing
 11 be so designated without a good faith belief that it has been maintained in a confidential,
 12 non-public manner, and there is good cause why it should not be part of the public
 13 record of this case. By entering into this Protective Order, neither party waives the right
 14 to assert privacy protection for any other unrelated third-party information, including
 15 but not limited to third-party private health information protected by the Health
 16 Insurance Portability and Accountability Act (“HIPAA”).

17 **3. ACKNOWLEDGMENT OF UNDER SEAL FILING PROCEDURE**

18 The parties further acknowledge, as set forth in Section 15.3, below, that this
 19 Stipulated Protective Order does not entitle them to file confidential information under
 20 seal; Local Civil Rule 79-5 sets forth the procedures that must be followed and the
 21 standards that will be applied when a party seeks permission from the court to file
 22 material under seal. There is a strong presumption that the public has a right of access
 23 to judicial proceedings and records in civil cases. In connection with non-dispositive
 24 motions, good cause must be shown to support a filing under seal. *See Kamakana v.*
25 City and County of Honolulu, 447 F.3d 1172, 1176 (9th Cir. 2006), Phillips v. Gen.
26 Motors Corp., 307 F.3d 1206, 1210-11 (9th Cir. 2002), Makar-Welbon v. Sony
27 Electrics, Inc., 187 F.R.D. 576, 577 (E.D. Wis. 1999) (even stipulated protective orders
 28 require good cause showing), and a specific showing of good cause or compelling

1 reasons with proper evidentiary support and legal justification, must be made with
 2 respect to Protected Material that a party seeks to file under seal. The parties' mere
 3 designation of Disclosure or Discovery Material as CONFIDENTIAL does not—
 4 without the submission of competent evidence by declaration, establishing that the
 5 material sought to be filed under seal qualifies as confidential, privileged, or otherwise
 6 protectable—constitute good cause. Further, if a party requests sealing related to a
 7 dispositive motion or trial, then compelling reasons, not only good cause, for the sealing
 8 must be shown, and the relief sought shall be narrowly tailored to serve the specific
 9 interest to be protected. *See Pintos v. Pacific Creditors Ass'n.*, 605 F.3d 665, 677-79
 10 (9th Cir. 2010). For each item or type of information, document, or thing sought to be
 11 filed or introduced under seal, the party seeking protection must articulate compelling
 12 reasons, supported by specific facts and legal justification, for the requested sealing
 13 order. Again, competent evidence supporting the application to file documents under
 14 seal must be provided by declaration. Any document that is not confidential, privileged,
 15 or otherwise protectable in its entirety will not be filed under seal if the confidential
 16 portions can be redacted. If documents can be redacted, then a redacted version for
 17 public viewing, omitting only the confidential, privileged, or otherwise protectable
 18 portions of the document, shall be filed. Any application that seeks to file documents
 19 under seal in their entirety should include an explanation of why redaction is not
 20 feasible.

21 4. **DEFINITIONS**

22 4.1. Action: *Cynthia Gilbert v. Option Care Enterprises, Inc.*, Case No. 2:23-
 23 cv-09992-SK.

24 4.2. Challenging Party: a Party or Non-Party that challenges the designation of
 25 information or items under this Order.

26 4.3. "CONFIDENTIAL" Information or Items: information (regardless of how
 27 it is generated, stored, and/or maintained) or tangible things that qualify for protection
 28 under Federal Rules of Civil Procedure Rule 26(c).

1 4.4. Counsel (without qualifier): Outside Counsel of Record and House
 2 Counsel (as well as their support staff).

3 4.5. Designating Party: a Party or Non-Party that designates information or
 4 items that she/he/it produces in disclosures or in responses to discovery as
 5 "CONFIDENTIAL."

6 4.6. Disclosure or Discovery Material: all items or information, regardless of
 7 the medium or manner in which it is generated, stored, and/or maintained (including,
 8 among other things, testimony, transcripts, and tangible things), which are produced or
 9 generated in disclosures or responses to discovery in this matter.

10 4.7. Expert: a person with specialized knowledge or experience in a matter
 11 pertinent to the litigation who has been retained by a Party or its counsel to serve as an
 12 expert witness or as a consultant in this action.

13 4.8. House Counsel: attorneys who are employees of a Party to this action.
 14 House Counsel does not include Outside Counsel of Record or any other outside
 15 counsel.

16 4.9. Non-Party: any natural person, partnership, corporation, association, or
 17 other legal entity not named as a Party to this action.

18 4.10. Outside Counsel of Record: attorneys who are not employees of a Party to
 19 this action but are retained to represent or advise a Party to this action and have appeared
 20 in this action on behalf of that Party or are affiliated with a law firm which has appeared
 21 on behalf of that Party.

22 4.11. Party: any Party to this action, including but not limited to all of its officers,
 23 directors, employees, consultants, retained experts, House Counsel and/or Outside
 24 Counsel of Record (and their support staffs).

25 4.12. Producing Party: a Party or Non-Party that produces Disclosure or
 26 Discovery Material in this action.

27 4.13. Professional Vendors: persons or entities that provide litigation support
 28 services (e.g., photocopying, videotaping, translating, preparing exhibits or
 4879-2862-5901.7 / 119101-1014

1 demonstrations, and organizing, storing, or retrieving data in any form or medium), and
 2 their employees and subcontractors.

3 4.14. Protected Material: any Disclosure or Discovery Material that is
 4 designated as “CONFIDENTIAL.”

5 4.15. Receiving Party: a Party that receives Disclosure or Discovery Material
 6 from a Producing Party.

7 **5. SCOPE**

8 The protections conferred by this Stipulation and Order cover not only Protected
 9 Material (as defined above), but also (1) any information copied or extracted from
 10 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected
 11 Material; and (3) any testimony, conversations, or presentations by Parties or their
 12 Counsel that might reveal Protected Material. Any use of Protected Material at trial
 13 shall be governed by the orders of the trial judge. This Order does not govern the use
 14 of Protected Material at trial.

15 **6. DURATION**

16 Once a case proceeds to trial, information that was designated as
 17 CONFIDENTIAL or maintained pursuant to this protective order used or introduced as
 18 an exhibit at trial becomes public and will be presumptively available to all members
 19 of the public, including the press, unless compelling reasons supported by specific
 20 factual findings to proceed otherwise are made to the trial judge in advance of the trial.
 21 *See Kamakana, 447 F.3d at 1180-81* (distinguishing “good cause” showing for sealing
 22 documents produced in discovery from “compelling reasons” standard when merits-
 23 related documents are part of court record). Accordingly, the terms of this protective
 24 order do not extend beyond the commencement of the trial.

25 **7. DESIGNATING PROTECTED MATERIAL**

26 7.1. Exercise of Restraint and Care in Designating Material for Protection.
 27 Each Party or Non-Party that designates information or items for protection under this
 28 Order must take care to limit any such designation to specific material that qualifies

1 under the appropriate standards. The Designating Party must designate for protection
 2 only those parts of material, documents, items, or oral or written communications that
 3 qualify – so that other portions of the material, documents, items, or communications
 4 for which protection is not warranted are not swept unjustifiably within the ambit of
 5 this Order.

6 Mass, indiscriminate, or routinized designations are prohibited. Designations
 7 that are shown to be clearly unjustified or that have been made for an improper purpose
 8 (e.g., to unnecessarily encumber or retard the case development process or to impose
 9 unnecessary expenses and burdens on other parties) may expose the Designating Party
 10 to sanctions.

11 If it comes to a Designating Party's attention that information or items that it
 12 designated for protection do not qualify for protection, that Designating Party must
 13 promptly notify all other Parties that it is withdrawing the designation.

14 7.2. Manner and Timing of Designations. Except as otherwise provided in this
 15 Order (see, e.g., second paragraph of section 5.2(a)), or as otherwise stipulated or
 16 ordered, Disclosure or Discovery Material that qualifies for protection under this Order
 17 must be clearly so designated before the material is disclosed or produced.

18 Designation in conformity with this Order requires:

19 (a) For information in documentary form (e.g., paper or electronic documents,
 20 but excluding transcripts of depositions or other pretrial or trial proceedings), that the
 21 Producing Party affix the legend “CONFIDENTIAL” to each page that contains
 22 protected material. If only a portion or portions of the material on a page qualifies for
 23 protection, the Producing Party also must clearly identify the protected portion(s) (e.g.,
 24 by making appropriate markings in the margins).

25 A Party or Non-Party that makes original documents or materials available for
 26 inspection need not designate them for protection until after the inspecting Party has
 27 indicated which material it would like copied and produced. During the inspection and
 28 before the designation, all of the material made available for inspection shall be deemed

1 “CONFIDENTIAL.” After the inspecting Party has identified the documents it wants
 2 copied and produced, the Producing Party must determine which documents, or portions
 3 thereof, qualify for protection under this Order. Then, before producing the specified
 4 documents, the Producing Party must affix the “CONFIDENTIAL” legend to each page
 5 that contains Protected Material. If only a portion or portions of the material on a page
 6 qualifies for protection, the Producing Party also must clearly identify the protected
 7 portion(s) (e.g., by making appropriate markings in the margins).

8 (b) For testimony given in deposition or in other pretrial or trial proceedings,
 9 that the Designating Party identify on the record, before the close of the deposition,
 10 hearing, or other proceeding, all protected testimony.

11 (c) For information produced in some form other than documentary and for
 12 any other tangible items, that the Producing Party affix in a prominent place on the
 13 exterior of the container or containers in which the information or item is stored the
 14 legend “CONFIDENTIAL.” If only a portion or portions of the information or item
 15 warrant protection, the Producing Party, to the extent practicable, shall identify the
 16 protected portion(s).

17 7.3. Inadvertent Failures to Designate. If timely corrected, an inadvertent
 18 failure to designate qualified information or items does not, standing alone, waive the
 19 Designating Party’s right to secure protection under this Order for such material. Upon
 20 timely correction of a designation, the Receiving Party must make reasonable efforts to
 21 assure that the material is treated in accordance with the provisions of this Order.

22 **8. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

23 8.1. Timing of Challenges. Any Party or Non-Party may challenge a
 24 designation of confidentiality at any time that is consistent with the Court’s Scheduling
 25 Order.

26 8.2. Meet and Confer. The Challenging Party shall initiate the dispute
 27 resolution process under Local Rule 37-1, *et seq.* Any discovery motion must strictly
 28

1 comply with the procedures set forth in Local Rules 37-1, 37-2, and 37-3, as well as the
 2 applicable standing or case management order(s) of the assigned judge.

3 8.3. Burden. The burden of persuasion in any such challenge proceeding shall
 4 be on the Designating Party. Frivolous challenges, and those made for an improper
 5 purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties)
 6 may expose the Challenging Party to sanctions. Unless the Designating Party has
 7 waived or withdrawn the confidentiality designation, all parties shall continue to afford
 8 the material in question the level of protection to which it is entitled under the Producing
 9 Party's designation until the Court rules on the challenge.

10 **9. ACCESS TO AND USE OF PROTECTED MATERIAL**

11 9.1. Basic Principles. A Receiving Party may use Protected Material that is
 12 disclosed or produced by another Party or by a Non-Party in connection with this Action
 13 only for prosecuting, defending or attempting to settle this Action. Such Protected
 14 Material may be disclosed only to the categories of persons and under the conditions
 15 described in this Order. When the Action has been terminated, a Receiving Party must
 16 comply with the provisions of section 16 below (FINAL DISPOSITION).

17 Protected Material must be stored and maintained by a Receiving Party at a
 18 location and in a secure manner that ensures that access is limited to the persons
 19 authorized under this Order.

20 9.2. Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise
 21 ordered by the court or permitted in writing by the Designating Party, a Receiving Party
 22 may disclose any information or item designated “CONFIDENTIAL” only to:

23 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well as
 24 employees of said Outside Counsel of Record to whom it is reasonably necessary to
 25 disclose the information for this Action;

26 (b) the officers, directors, and employees (including House Counsel) of the
 27 Receiving Party to whom disclosure is reasonably necessary for this Action;

28 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure
 4879-2862-5901.7 / 119101-1014

1 is reasonably necessary for this Action and who have signed the “Acknowledgment and
 2 Agreement to Be Bound” (Exhibit A);

3 (d) the court and its personnel;

4 (e) court reporters and their staff;

5 (f) professional jury or trial consultants and Professional Vendors to whom
 6 disclosure is reasonably necessary for this Action and who have signed the
 7 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

8 (g) the author or recipient of a document containing the information or a
 9 custodian or other person who otherwise possessed or knew the information.

10 (h) during their depositions, witnesses, and attorneys for witnesses, in the Action
 11 to whom disclosure is reasonably necessary provided: (1) the deposing party requests
 12 that the witness sign the form attached as Exhibit A hereto; and (2) they will not be
 13 permitted to keep any confidential information unless they sign the “Acknowledgment
 14 and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating
 15 Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to
 16 depositions that reveal Protected Material may be separately bound by the court reporter
 17 and may not be disclosed to anyone except as permitted under this Stipulated Protective
 18 Order; and

19 (i) any mediators or settlement officers and their supporting personnel, mutually
 20 agreed upon by any of the parties engaged in settlement discussions.

21 9.3 Protection and Use of Defendant’s Employee Information.

22 (a) At all times, Plaintiff’s Counsel have, and will maintain for as long as they
 23 access, process, store or transmit Defendant’s Employee Information, an information
 24 security program that complies with applicable law and industry best practices. The
 25 security program will apply to all locations, systems, devices and equipment used by
 26 Plaintiff or Plaintiff’s Counsel to access, process, store, or transmit Defendant’s
 27 Employee Information (“Plaintiff’s Counsel’s Systems”), and it will include physical,
 28 administrative, and technical security controls that prevent unauthorized access to,

4879-2862-5901.7 / 119101-1014

1 disclosure of, loss of, or use of the Plaintiff's Counsel's Systems and the Defendant's
 2 Employee Information that those Plaintiff's Counsel's Systems process, store, or
 3 transmit. In the event that Plaintiff or Plaintiff's Counsel suspect that any Plaintiff's
 4 Counsel's Systems or Defendant's Employee Information that the Plaintiff's Counsel's
 5 Systems, the Plaintiff or the Plaintiff's Counsel processes, stores, or transmits is subject
 6 to any suspected or actual unauthorized access, use, or disclosure, Plaintiff's Counsel
 7 will immediately notify Defendant's Counsel, Littler Mendelson, P.C., c/o Chad D.
 8 Greeson and Helen Braginsky, by telephone and writing. Plaintiff and Plaintiff's
 9 Counsel shall use Defendant's Employee Information only to the extent necessary in
 10 this lawsuit, shall securely delete Defendant's Employee Information upon conclusion
 11 of the Proceeding or as required by law and shall not disclose Defendant's Employee
 12 Information to any third party, who has not signed Exhibit A. Plaintiff's Counsel will
 13 also be responsible for ensuring that any vendors, subcontractors or third parties
 14 retained by Plaintiff or Plaintiff's Counsel that have access to any Defendant's
 15 Employee Information have security programs that meet the same requirements as set
 16 forth in this paragraph.

17 (b) To ensure that the privacy of material within Defendant's Employee
 18 Information is adequately protected, the parties will agree to a *Belaire-West* notice
 19 process to provide Defendant's employees an opportunity to opt out of disclosure of
 20 their private information. *Belaire-W. Landscape, Inc. v. Superior Ct.*, 149 Cal. App. 4th
 21 554 (2007). The cost of the notice and opt out process shall be jointly shared by the
 22 Parties.

23 **10. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED**
 24 **IN OTHER LITIGATION**

25 If a Party is served with a subpoena or a court order issued in other litigation that
 26 compels disclosure of any information or items designated in this action as
 27 "CONFIDENTIAL," that Party must:

28 (a) Promptly notify in writing the Designating Party, within five calendar days
 4879-2862-5901.7 / 119101-1014

1 of receipt of the subpoena or court order. Such notification shall include a copy of the
 2 subpoena or court order;

3 (b) Promptly notify in writing the party who caused the subpoena or order to
 4 issue in the other litigation that some or all of the material covered by the subpoena or
 5 order is subject to this Order. Such notification shall include a copy of this Order; and

6 (c) Cooperate with respect to all reasonable procedures sought to be pursued
 7 by the Designating Party whose Protected Material may be affected. If the Designating
 8 Party timely objects to the subpoena or seeks a protective order, the Party served with
 9 the subpoena or court order shall not produce any information designated in this action
 10 as “CONFIDENTIAL” before a determination by the court from which the subpoena
 11 or order issued, unless the Party has obtained the Designating Party’s permission. The
 12 Designating Party shall bear the burden and expense of seeking protection in that court
 13 of its confidential material. Nothing in these provisions should be construed as
 14 authorizing or encouraging a Receiving Party in this Action to disobey a lawful directive
 15 from another court.

11. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
PRODUCED IN THIS LITIGATION

12 (a) The terms of this Order are applicable to information produced by a Non-
 13 Party in this Action and designated as “CONFIDENTIAL.” Such information produced
 14 by Non-Parties in connection with this litigation is protected by the remedies and relief
 15 provided by this Order. Nothing in these provisions should be construed as prohibiting
 16 a Non-Party from seeking additional protections.

17 (b) In the event that a Party is required, by a valid discovery request, to
 18 produce a Non-Party’s confidential information in its possession, and the Party is
 19 subject to an agreement with the Non-Party not to produce the Non-Party’s confidential
 20 information, then the Party shall:

1 (1) Promptly notify in both the Requesting Party and the Non-Party in
 2 writing that some or all of the information requested is subject to a confidentiality
 3 agreement with a Non-Party;

4 (2) Promptly provide the Non-Party with a copy of the Order in this
 5 litigation, the relevant discovery request(s), and a reasonably specific description of the
 6 information requested; and

7 (3) Make the information requested available for inspection by the Non-
 8 Party.

9 (c) If the Non-Party fails to object or seek a protective order from this court
 10 within 14 days of receiving the notice and accompanying information, the Receiving
 11 Party may produce the Non-Party's confidential information responsive to the discovery
 12 request. If the Non-Party timely seeks a protective order, the Receiving Party shall not
 13 produce any information in its possession or control that is subject to the confidentiality
 14 agreement with the Non-Party before a determination by the court. Absent a court order
 15 to the contrary, the Non-Party shall bear the burden and expense of seeking protection
 16 in this court of its Protected Material.

17 **12. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

18 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
 19 Protected Material to any person or in any circumstance not authorized under this Order,
 20 the Receiving Party must immediately: (a) notify the Designating Party in writing of
 21 the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies
 22 of the Protected Material, (c) inform the person or persons to whom unauthorized
 23 disclosures were made of all the terms of this Order, and (d) request such person or
 24 persons to execute the "Acknowledgment and Agreement to Be Bound" that is attached
 25 hereto as Exhibit A.

26 **13. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE** 27 **PROTECTED MATERIAL**

28 When a Producing Party gives notice to Receiving Parties that certain
 4879-2862-5901.7 / 119101-1014

1 inadvertently produced material is subject to a claim of privilege or other protection,
2 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
3 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
4 may be established in an e-discovery order that provides for production without prior
5 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
6 parties reach an agreement on the effect of disclosure of a communication or
7 information covered by the attorney-client privilege or work product protection, the
8 parties may incorporate their agreement in the stipulated protective order submitted to
9 the court.

10 **14. DATA SECURITY PROVISION**

11 Any person in possession of another party's Confidential Materials shall maintain
12 reasonable administrative, technical, and physical safeguards designed to protect the
13 security and confidentiality of such Confidential Materials and protect against
14 unauthorized access to or use of such Confidential Materials. A person or party may
15 also comply with this provision by having the Confidential Materials managed by
16 and/or stored with eDiscovery vendors or claims administrators that maintain such an
17 information security program.

18 If the Receiving Party discovers a breach of security, including any actual or
19 suspected unauthorized access, relating to another party's Confidential Materials, the
20 Receiving Party shall: (1) promptly provide written notice to Producing Party of such
21 breach; (2) investigate and take reasonable efforts to remediate the effects of the breach
22 and provide Producing Party with assurances that such breach shall not recur; and (3)
23 provide sufficient information about the breach that the Producing Party can reasonably
24 ascertain the size and scope of the breach. If required by any judicial or governmental
25 request, requirement, or order to disclose such information, the Receiving Party shall
26 take all reasonable steps to give the Producing Party sufficient prior notice in order to
27 contest such request, requirement, or order through legal means. The Receiving Party
28 agrees to cooperate with the Producing Party or law enforcement in investigating any
4879-2862-5901.7 / 119101-1014

1 such security incident. In any event, the Receiving Party shall promptly take all
 2 necessary and appropriate corrective action to terminate the unauthorized access.

3 **15. MISCELLANEOUS**

4 15.1. Right to Further Relief. Nothing in this Order abridges the right of any
 5 person to seek its modification by the court in the future.

6 15.2. Right to Assert Other Objections. By stipulating to the entry of this Order,
 7 no Party waives any right she/he/it otherwise would have to object to disclosing or
 8 producing any information or item on any ground not addressed in this Order.
 9 Similarly, no Party waives any right to object on any ground to use in evidence of any
 10 of the material covered by this Order.

11 15.3. Filing Protected Material. A Party that seeks to file under seal any
 12 Protected Material must comply with Local Civil Rule 79-5. Protected Material may
 13 only be filed under seal pursuant to a court order authorizing the sealing of the specific
 14 Protected Material. If a Party's request to file Protected Material under seal is denied
 15 by the court, then the Receiving Party may file the information in the public record
 16 unless otherwise instructed by the court.

17 **16. FINAL DISPOSITION**

18 After the final disposition of this Action, within 60 days of a written request by
 19 the Designating Party, each Receiving Party must return all Protected Material to the
 20 Producing Party or destroy such material. Final disposition shall be deemed to be the
 21 later of (1) dismissal of all claims and defenses in this action, with or without prejudice;
 22 (2) final judgment herein after the completion and exhaustion of all appeals, rehearings,
 23 remands, trials, or reviews of this action, including the time limits for filing any motions
 24 or applications for extension of time pursuant to applicable law; and (3) final
 25 disbursement of any proceeds under settlement or judgment herein. As used in this
 26 subdivision, "all Protected Material" includes all copies, abstracts, compilations,
 27 summaries, and any other format reproducing or capturing any of the Protected
 28 Material. Whether the Protected Material is returned or destroyed, the Receiving Party

4879-2862-5901.7 / 119101-1014

1 must submit a written certification to the Producing Party (and, if not the same person
 2 or entity, to the Designating Party) by the 60-day deadline that (1) identifies (by
 3 category, where appropriate) all the Protected Material that was returned or destroyed
 4 and (2) affirms that the Receiving Party has not retained any copies, abstracts,
 5 compilations, summaries or any other format reproducing or capturing any of the
 6 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an
 7 archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,
 8 legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney
 9 work product, and consultant and expert work product, even if such materials contain
 10 Protected Material.

11 **17. VIOLATION**

12 Any violation of this Order may be punished by appropriate measures including,
 13 without limitation, contempt proceedings and/or monetary sanctions.

14 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

15 Dated: October 23, 2024

PALAY HEFELFINGER, APC

/s/ Brian Hefelfinger

DANIEL J. PALAY
BRIAN D. HEFELFINGER

Attorneys for Plaintiff
CYNTHIA GILBERT

21 Dated: October 23, 2024

LITTLER MENDELSON, P.C.

/s/ Helen Braginsky

CHAD D. GREESON
HELEN BRAGINSKY

Attorneys for Defendant
OPTION CARE ENTERPRISES, INC.

Certification of Compliance with C.D. Cal. L.R. 5-4.3.4(a)(2)(i)

I hereby certify that pursuant to C.D. Cal. L.R. 5-4.3.4(a)(2)(i), I have obtained the authorization from the above signatories to file the above-referenced document, and that the above signatories concur in the filing's content. I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 23, 2024.

By: /s/ Helen Braginsky

ORDER

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: October 29, 2024

HON. STEVE KIM
United States Magistrate Judge

EXHIBIT A

ACKNOWLEDGEMENT AND AGREEMENT TO BE BOUND

I hereby acknowledge that I, _____ [NAME],
_____ [POSITION AND EMPLOYER], am
about to receive Protected Material supplied in connection with the Action: *Cynthia
Gilbert v. Option Care Enterprises, Inc.*, Case No. 2:23-cv-09992-SK. I understand that
said Protected Material is provided to me subject to the terms and restrictions of the
Stipulated Protective Order filed in this Action. I have been given a copy of the
Stipulated Protective Order; I have read it; and, I agree to be bound by its terms. I
understand that Protected Material as defined in the Stipulated Protective Order,
including any notes or other records that may be made regarding any such materials,
shall not be disclosed to anyone, except as expressly permitted by the Stipulated
Protective Order. I will not copy or use, except solely for the purposes of this Action,
any Protected Material obtained pursuant to the Stipulated Protective Order, except as
provided therein or otherwise ordered by the Court in the Action. I further understand
that I am to retain all copies of all Protected Material provided to me in a secure manner,
and that all copies of such Protected Material are to remain in my personal custody and
control until termination of my participation in this Action, whereupon the copies of
such Materials will be returned to counsel who provided me with such Material.

Dated:

BY:

Signature

Print Name

Title

Address

City, State, Zip

Telephone Number